

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RAMON BELTRAN,

Plaintiff,

v.

WASTE MANAGEMENT, INC., et al.,

Defendants.

No. 2:23-cv-00279-MCE-KJN

**MEMORANDUM AND ORDER**

Through this action, Plaintiff Ramon Beltran (“Plaintiff”), on behalf of both himself and a putative class of those similarly situated, seeks to recover from Defendants Waste Management, Inc., and Waste Management National Services, Inc., (collectively, “Defendants”) for their purported violation of the Fair Credit Reporting Act (“FCRA”). Defendants previously filed a motion for judgment on the pleadings (“MJOP”), ECF No. 10, which this Court granted with leave to amend, ECF No. 14. Plaintiff timely filed a First Amended Complaint (“FAC”), ECF No. 15, which Defendants answered, ECF No. 16. Presently before the Court is Defendants’ second MJOP. ECF No. 17. For the following reasons, that Motion is GRANTED with leave to amend as well.<sup>1</sup>

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<sup>1</sup> Because oral argument would not have been of material assistance, the Court ordered this matter submitted on the briefs. E.D. Local Rule 230(g).

## **STANDARD**

Under Federal Rule of Civil Procedure 12(c),<sup>2</sup> “a party may move for judgment on the pleadings” after the pleadings are closed “but early enough not to delay trial.” A motion for judgment on the pleadings pursuant to Rule 12(c) challenges the legal sufficiency of the opposing party’s pleadings. See, e.g., Westlands Water Dist. v. Bureau of Reclamation, 805 F. Supp. 1503, 1506 (E.D. Cal. 1992).

The standard for evaluating a motion for judgment on the pleadings is essentially the same as the standard applied to a Rule 12(b)(6) motion. Dworkin v. Hustler Magazine, Inc., 867 F.2d 1188, 1192 (9th Cir. 1989). A motion for judgment on the pleadings should only be granted if “the moving party clearly establishes on the face of the pleadings that no material issue of fact remains to be resolved and that it is entitled to judgment as a matter of law.” Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc., 896 F.2d 1542, 1550 (9th Cir. 1989) (internal citation omitted). Judgment on the pleadings is also proper when there is either a “lack of cognizable legal theory” or the “absence of sufficient facts alleged under a cognizable legal theory.” Balistreri v. Pacifica Police Dept., 901 F.2d 696, 699 (9th Cir. 1988). In reviewing a Rule 12(c) motion, “all factual allegations in the complaint [must be accepted] as true and construe[d] . . . in the light most favorable to the non-moving party.” Fleming v. Pickard, 581 F.3d 922, 925 (9th Cir. 2009). Judgment on the pleadings under Rule 12(c) is warranted “only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations.” Deveraturda v. Globe Aviation Sec. Servs., 454 F.3d 1043, 1046 (9th Cir. 2006) (internal citations and quotation marks omitted).

Courts have discretion to grant leave to amend in conjunction with motions made pursuant to Rule 12(c). Lonberg v. City of Riverside, 300 F. Supp. 2d 942, 945 (C.D. Cal. 2004) (citation omitted). Generally, leave to amend a complaint is denied only if it is

<sup>2</sup> All further references to “Rule” or “Rules” are to the Federal Rules of Civil Procedure.

1 clear that the deficiencies of the complaint cannot be cured by amendment. DeSoto v.  
2 Yellow Freight Sys., Inc., 957 F.2d 655, 658 (9th Cir. 1992).

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4 **ANALYSIS**  
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6 The Court granted Defendants' first MJOP after holding that Plaintiff failed to  
7 adequately allege Article III standing:

8 In the Complaint, Plaintiff alleges that when he applied for  
9 employment, Defendants provided a disclosure form to  
10 perform a background investigation, which purportedly  
11 contained extraneous and superfluous language that extended  
12 beyond the disclosure as required by the FCRA and/or is not  
13 clear and conspicuous. Plaintiff thus contends that the  
14 disclosures violated Section 1681b(b)(2)(A) and 1681(d) of the  
15 FCRA. According to Plaintiff, Defendants' flawed FCRA  
16 disclosure jeopardized Plaintiff and the putative class  
17 members' full understanding of both their rights guaranteed by  
18 the FCRA and of what exactly they were allowing Defendants  
19 to procure. Notably absent, however, are any allegations that  
20 Plaintiff was actually confused by the disclosures or that he  
21 would have responded differently had the disclosures  
22 complied with the FCRA. Nor are there facts included within  
23 the Complaint from which such inferences may be drawn.  
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25 The Court thus concludes that Plaintiff has failed to adequately  
26 allege the requisite standing to pursue his claims. See Nunley  
27 v. Cardinal Logistics Mgmt. Corp., 2022 WL 5176867, at \*3  
28 (C.D. Cal. 2022) (finding no standing under analogous  
circumstances when the complaint "does not allege that  
plaintiff suffered any actual confusion resulting from the  
purportedly noncompliant disclosures or that plaintiff would  
have taken any action if Defendants had complied with the  
FCRA") (collecting cases). The Court also concludes Plaintiff's  
authority, Syed v. M-I, LLC, 853 F.3d 492 (9th Cir. 2017), is  
inapposite and thus not controlling. See Nunley, 2022 WL  
5176867, at \*4. "In sum, the crux of the Complaint is that  
Defendants did not comply with the technical authorization and  
disclosure requirements of the FCRA." Id. at \*5. This is  
insufficient to establish Article III standing, and Defendants'  
Motion is thus GRANTED. Id.

25 ECF No. 14 at 3-4 (footnotes omitted).

26 In response to the Court's order, Plaintiff added allegations to the FAC averring  
27 that "Defendants . . . listed two different consumer reporting agencies located in two  
28 different states: 'Cisive (formerly CARCO Group Inc.)' located in Holtsville, NY, as well

1 as ‘Foley Carrier Services, LLC’ located in Hartford, CT.” ECF No. 15, ¶ 25. According  
2 to Plaintiff, “[t]he inclusion of this section only serves to make the disclosure unclear,  
3 confusing Plaintiff and members of the putative class.” Id.<sup>3</sup> Plaintiff argues here that the  
4 resulting confusion is sufficient to establish that he has standing to pursue his claims in  
5 this case.

More specifically, Plaintiff contends all that is required to plead the requisite injury in-fact is the allegation that Plaintiff—along with putative class members—was confused at some point. To reach this conclusion, Plaintiff relies on the Court’s statement that he had failed to plead that he “was actually confused by the disclosures or that he would have responded differently had the disclosures complied with the FCRA.” ECF No. 14 at 3 (emphasis added). Given the Court’s use of the word “or,” Plaintiff contends, he could rely on either confusion or the fact that he would have responded differently to meet the standing threshold. However, Plaintiff misinterpreted the Court’s order. The Court pointed out that Plaintiff had pled neither of those things, not that only one was required. In fact, even in Plaintiff’s own authority, the court determined both had been established.

25                   <sup>3</sup> Plaintiff's challenge to the inclusion of contact information for two consumer reporting agencies is  
26 hard to square with the Ninth Circuit's decision in Walker v. Fred Meyer, Inc., 953 F.3d 1082, 1090 (9th  
27 Cir. 2020) (determining the inclusion of one consumer reporting agency did not violate the FCRA). While  
28 the Court believes that there is likely to be some number of consumer reporting agencies the inclusion of  
which would tip the scale toward confusion and non-compliance, it would likely take more than two. This is  
the only provision that Plaintiff contends caused him any confusion, so the Court does not address the  
remainder of Plaintiff's challenges to the disclosure here.

1 differently under those circumstances had he known. In this case, on the other hand,  
2 Plaintiff merely alleges that he was generally confused at some point, but there is  
3 nothing from which the Court can infer that Plaintiff was confused at the time he signed  
4 the document, what he was confused about, and that he would have proceeded  
5 differently if provided with a compliant disclosure. Plaintiff has thus not sufficiently pled  
6 he has standing to pursue the instant claims.

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## CONCLUSION

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10 For the foregoing reasons, Defendants' Motion for Judgment on the Pleadings,  
11 ECF No. 17, is GRANTED with final leave to amend. Not later than twenty (20) days  
12 following the date this Memorandum and Order is electronically filed, Plaintiff may, but is  
13 not required to, file an amended complaint. If no amended pleading is timely filed, this  
14 action will be deemed dismissed with prejudice upon no further notice to the parties.

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IT IS SO ORDERED.

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Dated: January 23, 2024

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MORRISON C. ENGLAND, JR.  
SENIOR UNITED STATES DISTRICT JUDGE

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